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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,781	01/26/2004	Kazuhiro Nakamura	AB-1146 US	2469

7590 08/25/2008  
MacPherson Kwok Chen & Heid LLP  
Suite 226  
1762 Technology Drive  
San Jose, CA 95100

EXAMINER
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CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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08/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/765,781	NAKAMURA ET AL.
Examiner	Art Unit	
/Stephen J. Castellano/	3781	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 26 July 2007.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 11-13 and 18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 11-13 and 18 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

Applicant has significantly changed the claims by adding the phrase "to be" in line 10 of claim 11. The tank and component part were welded to each other in previous amendments. The welded configurations of the Fig. 5-7 were not patentably different. The tank and component part are not welded in this current amendment. Therefore, the pre-welded configurations of Fig. 5-7 are claimed and are significant and different.

Claims 1-10, 14-17 and 19-20 are canceled. Claims 11-13 and 18 are pending.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 describes the outer surface of the second part as being exposed (which is directly exposed to the environment outside the tank body). An exposed surface would be required to be uncovered. In contradiction, the outer surface is substantially covered when fitted in the tank opening. Claim 18 is indefinite because of this contradiction.

Three possibilities seems plausible:

First possibility, applicant means to claim an exposed outer surface which once the component part is welded this exposed surface is enclosed such that it is no longer exposed. This is not entirely accurate since the exposed outer surface consists of material that melts during the welding process and flows. The direction of flow is not known and is not disclosed. The exposed outer surface is annihilated and no longer exists after welding. This would be new matter.

Second possibility, applicant means to state that the exposed outer surface upon fitting and before welding is covered by the tank at the perimeter of the opening. This is not supported by Fig. 4 which shows the opening is smaller than the perimeter of the outer exposed surface. A bottom surface of the second part touches the outer surface of the tank in Fig. 4. The bottom surface is not an exposed outer surface covered by the first part. This would be new matter.

Third possibility, applicant means to claim that the second part has an outer surface, a majority portion of the outer surface is covered by the first part and a minority portion of the outer surface is exposed to the environment.

Claim 18 will be interpreted to have an exposed outer surface portion of the second part and a covered outer surface portion of the second part.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following rejections are made insofar as the effective filing date of the present application is July 17, 2001 since (1) English language translations for the Japanese priority documents have not been provided in either application serial No. 10/765781 or 09/908271 and (2) those translations have not been certified.

Claims 11-13 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (Suzuki)(October 13, 2000 filing date).

Suzuki discloses as shown in Fig. 1 a laminated fuel tank (1) in combination with a component part (6) which meets all of the limitations of the claimed invention. The second part (flange portion 7 and boss portion 9) made of weldable plastic provided in a peripheral part (both flange portion 7 and boss portion 9 are peripheral to center open area of component part 6) of the component part at which the component part is welded to the outer layer of the tank (welded at 10 on flange portion 7). The first part (8, 8a) made of gas barrier material defines an end surface (the outer conical surface of 8a) engaged with the outer tank main body layer at the upper end of the outer conical surface of 8a. The second part in a peripheral part (part extending radially outward of the center open area of component part 6) projecting slightly beyond (in a radially outward manner) the end surface of the first part and exposing the end surface of the first part.

Re claim 18, the outer surface (outer surface of both flange portion and boss portion) of the second part has a first portion (flange portion 7) exposed to the environment outside the tank and a second portion(boss portion 9)covered with the first part.

Re claim 12, the second part projecting beyond (in a radially outward manner) the end surface of the first part defines a convex surface at the rounded edge between an upwardly facing surface of the flange 7 and a radially outward facing surface of the flange 7.

Re claim 13, the second part at boss portion 9 has an outer surface portion projecting upwardly and radially outward of the upper terminal end of 8a which projects beyond the end surface of the first part and defines a slanted flat surface insofar as Fig. 7 discloses a slanted flat surface

Please note that the limitations of claims 12 and 13 rely upon Japanese document 2000-394659 alone with a date of filing of December 26, 2000. Since the December 26, 2000 filing date doesn't precede the October 13, 2000 filing date, this foreign priority document doesn't adequately establish an earlier filing date even if the English language translation and certification are provided.

Claims 11-13 are rejected under 35 U.S.C. 102(a) as being anticipated by Japanese reference JP 2001-113963 to Suzuki et al. (Suzuki)(publication date April 24, 2001).

The disclosure of this Kokai reference is believed to be identical to Suzuki et al. (6305568). Suzuki discloses as shown in Fig. 1 a laminated fuel tank (1) in combination with a component part (6) which meets all of the limitations of the claimed invention.

Applicant's arguments filed March 26, 2007 have been fully considered but they are not persuasive. In response to comments made about Suzuki (6305568) or Suzuki (JP 2001-113963) not disclosing the first and second parts concentrically located with respect to each other, the first part at 8a is located outward and concentrically with respect to boss portion 9 of the second part as shown in Fig. 1, both 8a and boss portion 9 are peripherally located with respect to the center opening of component part 6. An analysis of Fig. 2 has the same conclusion. The weldable material of the second part of flange 7 projects beyond (in a radial outward manner) the fuel permeation preventing layer 8 of the first part at a location to interface with the tank body.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/  
Primary Examiner  
Art Unit 3781

sjc